

**A RESOLUTION AS SUBSTITUTED  
BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE CASE OF *YARDUM V. CITY OF ATLANTA*, SUPERIOR COURT OF FULTON COUNTY, CIVIL ACTION FILE NO. 2004CV20096, AUTHORIZING SAID PAYMENT TO BE CHARGED TO AND PAID FROM VARIOUS FUND ACCOUNTS 1A01 (GENERAL) 59017 (PROPERTY/LIQUIDATION) T31001 (UNALLOCATED FUND-WIDE EXPENSES); AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.**

WHEREAS, Ms. Ruth Yardum owns a commercial property known as 2100 Spinks Street, NW, in the City of Atlanta, on which she had a tenant named Landmark Environmental Services, Inc., which operated a soil composting or soil amendment facility; and

WHEREAS, both Ms. Yardum and Landmark filed suit against the City of Atlanta contending that the City had created or maintained a nuisance by allowing raw sewage to flood the property, and after a trial held in the Superior Court of Fulton County in February, 2003, the jury awarded damages of approximately \$4.8 million to Ms. Yardum plus \$250,000 in attorney fees and litigation expenses; and

WHEREAS, the City appealed to the Court of Appeals of Georgia from the judgment entered in favor of Ms. Yardum, and on March 17, 2005, the Court of Appeals rendered its opinion affirming the award of damages to Ms. Yardum; and

WHEREAS, since the entry of the original jury award in February, 2003, interest has increased the total judgment due to a sum presently in excess of \$6.0 million; and

WHEREAS, Ms. Yardum, through her attorneys, has offered to settle for a reduced amount of \$5.0 million, on condition that the City of Atlanta not seek to have the Supreme Court of Georgia review the decision of the Court of Appeals, and has offered to take payment in two annual installments, as set out below; and

WHEREAS, in the opinion of the City Attorney the proposed settlement is in the best interest of the City; now therefore,

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY  
RESOLVES

Section 1: THAT the City Attorney is hereby authorized on behalf of the City of Atlanta to settle the case of *Ruth Yardum v. the City of Atlanta*, Civil Action File No. 2000-CV-20096, in the Superior Court of Fulton County, Georgia, for the sum of Five Million (\$ 5,000,000.00) Dollars, in full settlement of her judgment against the City of Atlanta, said sum to be paid in two installments as set forth in Sections 2 and 3 following;

Section 2: THAT in furtherance of said settlement the Chief Financial Officer is authorized to issue the City's check (such check to be paid no later than June 15, 2005) in the sum of Two Million, Five Hundred Thousand (\$ 2,500,000.00) Dollars, payable jointly to Ruth Yardum, and her attorneys, Drew, Eckl, and Farnham, LLP, and to charge \$2,500,000.00 of such amount to 1A01 (General) 529017 (Property/Liquidation) T31001 (Unallocated Fund-wide Expenses) to constitute the first of two installment payments;

Section 3: THAT in furtherance of said settlement the Chief Financial Officer is authorized to issue no later than one year after the effective date of this resolution the City's check in the sum of Two Million, Five Hundred Thousand (\$ 2,500,000.00) Dollars, together with interest thereon at the rate of Seven (7%) Percent per annum from the effective date of this resolution to the date of payment, payable jointly to Ruth Yardum, and her attorneys, Drew, Eckl, and Farnham, LLP; and to charge \$2,500,000.00 of such amount to 2J01 (Water & Wastewater Revenues) 529017 (Property/Liquidation) T31001 (Unallocated Fund-wide Expenses) to constitute the second and last of two installment payments;

Section 4: THAT the City Attorney is authorized to enter into and execute on behalf of the City of Atlanta any and all documents, agreements and pleadings necessary to effectuate the settlement as authorized herein.

A RESOLUTION BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION  
COMMITTEE

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Section 2: THAT in furtherance of said settlement the Chief Financial Officer is authorized to issue the City's check (such check to be paid no later than June 15, 2005) in the sum of Two Million, Five Hundred Thousand (\$ 2,500,000.00) Dollars, payable jointly to Ruth Yardum, and her attorneys, Drew, Eckl, and Farnham, LLP, and to charge \$\_\_\_\_\_ of such amount to Account No. 1A01-529017-T31001, "Settlement of Suits and Claims," and to charge the balance of such amount to Account No. \_\_\_\_\_, such payment to constitute the first of two installment payments;

Section 3: THAT in furtherance of said settlement the Chief Financial Officer is authorized to issue no later than one year after the effective date of this resolution the City's check in the sum of Two Million, Five Hundred Thousand (\$ 2,500,000.00) Dollars, together with interest thereon at the rate of Seven (7%) Percent per annum from the effective date of this resolution to the date of payment, payable jointly to Ruth Yardum, and her attorneys, Drew, Eckl, and Farnham, LLP; and to charge \$\_\_\_\_\_ of such amount to Account No. 1A01-529017-T31001, "Settlement of Suits and Claims," and to charge the balance of such amount to Account No. \_\_\_\_\_, such payment to constitute the second and last of two installment payments;

Section 4: THAT the City Attorney is authorized to enter into and execute on behalf of the City of Atlanta any and all documents, agreements and pleadings necessary to effectuate the settlement as authorized herein.